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FIA Card Services, N.A. (erroneously sued as "Bank of America")

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

JASON C. DOOLEN,

Plaintiff,

vs.

BANK OF AMERICA,

Defendant.

Case No. 2:14-cv-00716-JCM-VCF

**DEFENDANT FIA CARD SERVICES,
N.A.'S ANSWER TO PLAINTIFF'S
COMPLAINT**

Defendant FIA Card Services, N.A. (erroneously sued as "Bank of America") (hereinafter, "FIA" or "Defendant"), through its counsel, Snell & Wilmer LLP, hereby answers the Complaint (the "Complaint") of Plaintiff Jason C. Doolen ("Plaintiff") as follows:

1. Paragraph 1 of the Complaint seeks a legal conclusion to which no admission or denial is required.

2 (a). Paragraph 2(a)¹ of the Complaint seeks a legal conclusion to which no admission or denial is required.

¹ The Complaint is misnumbered and contains two paragraphs labeled as "Paragraph 2." As such, FIA will relabel them as "Paragraph 2(a)" and "Paragraph 2(b)."

2 (b). FIA lacks specific information and belief to respond to the allegation contained in Paragraph 2(b) of the Complaint. On that basis, FIA denies the allegation contained in Paragraph 2(b).

3. Paragraph 3 of the Complaint seeks a legal conclusion to which no admission or denial is required.

4. Paragraph 4 of the Complaint seeks a legal conclusion to which no admission or denial is required.

5. Paragraph 5 and subsection (a) of Paragraph 5 of the Complaint seek legal conclusions to which no admissions or denials are required. As a further response, FIA denies the allegations contained in Paragraph 5 and subsection (a) of Paragraph 5.

6. Paragraph 6 of the Complaint seeks a legal conclusion to which no admission or denial is required.

7. Paragraph 7 of the Complaint seeks a legal conclusion to which no admission or denial is required.

8. Paragraph 8 and subsection (a) of Paragraph 8 of the Complaint seek legal conclusions to which no admissions or denials are required. As a further response, FIA denies the allegations contained in Paragraph 8 and subsection (a) of Paragraph 8.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

Plaintiff's claims fail to allege facts sufficient to state any cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Laches)

Plaintiff's claims are barred by the doctrine of laches.

THIRD AFFIRMATIVE DEFENSE

(Statute of Limitations)

Plaintiff's claims are barred by all applicable statutes of limitations.

FOURTH AFFIRMATIVE DEFENSE

(Estoppel)

All of the causes of action alleged in the Complaint are barred by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Waiver)

Plaintiff has waived any and all claims, rights and demands that he had or may have against Defendant, and any claims by Plaintiff asserted herein are subject to that waiver.

SIXTH AFFIRMATIVE DEFENSE

(Ratification/Consent)

Plaintiff has ratified or consented to the actions and conduct of Defendant.

SEVENTH AFFIRMATIVE DEFENSE

(Complaint Moot)

The Complaint and/or each cause of action therein, is barred by the doctrine of mootness.

EIGHTH AFFIRMATIVE DEFENSE

(Plaintiff's Own Conduct)

Any damages purportedly suffered by Plaintiff resulted from his own negligence, acts or conduct.

NINTH AFFIRMATIVE DEFENSE

(Fault of Plaintiff and/or Others)

If Plaintiff suffered or sustained any loss, injury, damage, or detriment, the same was directly and proximately caused and contributed to by the breach, conduct, acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional misconduct of Plaintiff or of third parties, and not Defendant.

TENTH AFFIRMATIVE DEFENSE

(Innocent Mistake/Bona Fide Error)

Any alleged acts or omissions of Defendant giving rise to the claims of Plaintiff, if any, are the result of innocent mistake and/or bona fide error despite reasonable procedures

1 implemented by Defendant. Defendant, at all times acted in a reasonable manner in connection
2 with the transactions at issue in this action.

3 **ELEVENTH AFFIRMATIVE DEFENSE**

4 (Lack of Intent)

5 Defendant specifically denies that it acted with any intent or knowledge to cause any
6 injury or loss to Plaintiff.

7 **TWELFTH AFFIRMATIVE DEFENSE**

8 (Justification)

9 The acts and omissions alleged in the Complaint were justified.

10 **THIRTEENTH AFFIRMATIVE DEFENSE**

11 (Uncertainty)

12 The claims of Plaintiff are uncertain, ambiguous, and unintelligible.

13 **FOURTEENTH AFFIRMATIVE DEFENSE**

14 (Good Faith/Conformance with Applicable Standards)

15 With respect to all matters alleged in the Complaint, Defendant at all times acted in good
16 faith and in conformance with all applicable government and industry standards, thus precluding
17 any recovery by Plaintiff.

18 **FIFTEENTH AFFIRMATIVE DEFENSE**

19 (Reasonable Investigation)

20 Defendant conducted a reasonable investigation in response to a notice of dispute it
21 received relating to the credit reporting of Plaintiff's account at issue in this lawsuit.

22 **SIXTEENTH AFFIRMATIVE DEFENSE**

23 (Compliance with Law)

24 Defendant met or exceeded the requirements of all applicable statutes, laws, regulations,
25 and standards applicable to Defendant.

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SEVENTEENTH AFFIRMATIVE DEFENSE

(Failure to Perform Duties Under Contract)

Plaintiff failed to perform his obligations under the contract.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Lack of Malice)

Defendant specifically denies that it acted with any willfulness, oppression, fraud or malice towards Plaintiff or others.

NINETEENTH AFFIRMATIVE DEFENSE

(Right to Compel Arbitration)

Defendant reserves its right compel arbitration of this matter, pursuant to the relevant agreement(s).

TWENTIETH AFFIRMATIVE DEFENSE

(Additional Affirmative Defenses)

Defendant has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Defendant therefore reserves the right to assert additional affirmative defenses in the event discovery indicates that they may be appropriate.

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by reason of the Complaint;
2. For its costs of suit herein;
3. For attorney's fees according to proof; and

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1 4. For such other and further relief as this Court may deem just and proper.

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3 Dated: August 12, 2014

SNELL & WILMER L.L.P.

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5 By: /s/ Robin E. Perkins
6 Robin E. Perkins, Esq.
7 3883 Howard Hughes Parkway
8 Suite 1100
9 Las Vegas, Nevada 89169
10 Attorneys for Defendant FIA Card Services,
11 N.A. (erroneously sued as "Bank of America")
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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **DEFENDANT FIA CARD SERVICES, N.A.'S ANSWER TO PLAINTIFF'S COMPLAINT** the method indicated:

 X U.S. Mail
 U.S. Certified Mail
 Facsimile Transmission
 Overnight Mail
 Federal Express
 Hand Delivery
 Electronic Filing

and addressed to the following:

Jason C. Doolen
 6665 Secluded Ave
 Las Vegas, NV 89110
Plaintiff Pro Se

DATED August 12, 2014

/s/ Maricris Williams
 An Employee of Snell & Wilmer L.L.P.

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